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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA, ) No. CR-09-00775 SBA  
Plaintiff, ) STIPULATED REQUEST TO CONTINUE  
v. ) HEARING DATE TO MAY 22, 2012 AND  
JUAN OCTAVIANO LOPEZ, and ) TO EXCLUDE TIME UNDER THE  
GLENDY GOMEZ, ) SPEEDY TRIAL ACT  
Defendants. )

The above-captioned matter is set for April 25, 2012 for a status conference. The parties request that the Court continue the hearing to May 22, 2012 at 10:00 a.m. and that the Court exclude time under the Speedy Trial Act between the filing of this stipulation and May 22, 2012.

Defendants Lopez and Gomez were charged on July 29, 2009 with possession of a controlled substance for sale. Attorney Lynn Keslar was originally appointed for Mr. Lopez, and Randy Knox for Ms. Gomez. On November 8, 2011 Attorney Erik Babcock was appointed to represent Mr. Lopez.

It turns out that counsel for both defendants will be in trial on April 25, 2012, the date currently set for the hearing in this case. Additionally, counsel for Mr. Lopez, who was only STIP. REQ. AND [PROPOSED] ORDER TO CONTINUE HEARING TO MAY 22, 2012 AND TO EXCLUDE TIME No. CR-09-00775 SBA

1 appointed late last year, needs additional time in which to consult with his client. Counsel will  
2 need additional time before being prepared to determine whether or not defendant Lopez should  
3 enter a change of plea or file motions and to prepare for trial in this matter.

4 The parties agree and stipulate that a continuance is therefore necessary in order to  
5 review the discovery and the evidence, evaluate the proposed plea agreement in light of the  
6 discovery and the evidence, and to meet and confer with Mr. Babcock's client to discuss the  
7 discovery and the evidence and to determine whether or not to prepare and file motions in this  
8 case and/or to proceed to trial. Counsel for defendants Lopez and Gomez have scheduling  
9 conflicts deriving from other cases between the date of this stipulation and May 22, 2012.

10 The extension is not sought for delay. The parties agree the ends of justice served by  
11 granting the continuance outweigh the best interests of the public and the defendants in a speedy  
12 trial. Therefore, the parties further stipulate and request that the Court exclude time between the  
13 filing of this stipulation and May 22, 2012 the Speedy Trial Act for effective preparation of  
14 counsel, continuity of counsel, and pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

15  
16 DATED: April 24, 2012

17 /s/  
18 CHRISTINA McCALL  
19 Assistant United States Attorney

20 /s/  
21 ERIK BABCOCK  
22 Counsel for Defendant Juan Lopez

23 /s/  
24 RANDALL G. KNOX  
25 Counsel for Glendy Gomez

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## **FINDINGS AND ORDER.**

The parties jointly requested that the hearing in this matter be continued from April 25, 2012 to May 22, 2012 at 10:00 a.m., and that time be excluded under the Speedy Trial Act between the filing of this stipulation and May 22, 2012.

The Court hereby finds that the requested continuance will provide defendants' counsel with necessary time to evaluate the evidence in this case and determine whether or not defendants should enter a change of plea or file motions and to prepare for trial in this matter. Specifically, new counsel was appointed for defendant Lopez after his prior counsel withdrew and new counsel needs additional time review the discovery and the evidence, evaluate the plea agreement in light of the discovery and the evidence, and to meet and confer with his client to discuss the discovery and the evidence and to determine whether or not to prepare and file motions in this case and/or to proceed to trial. Counsel for defendants Lopez and Gomez have scheduling conflicts deriving from other cases between the date of this stipulation and May 22, 2012. The parties agreed that the extension is not sought for delay. The parties further agreed the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial.

For these stated reasons, the Court finds that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial. Good cause appearing therefor, and pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv),

**IT IS HEREBY ORDERED** that the hearing in this matter is continued from April 25, 2012 to May 22, 2012 at 10:00 a.m. before this Court, and that time between the filing of this stipulation and May 22, 2012 is excluded under the Speedy Trial Act to allow for the effective preparation of defense counsel, and continuity of counsel, taking into account the exercise of due diligence.

DATED:4/24/12

Saundra B Armstrong  
HON. SAUNDRA BROWN ARMSTRONG  
United States District Court Judge

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HEARING TO MAY 22, 2012 AND TO EXCLUDE TIME  
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